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Integration of Customary Law and Islamic Law in *Makassaarsche Chrestomathie* Manuscript

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Abstract:

In the Makassar community, some of the customary legal norms are preserved in the *Makassaarsche Chrestomathie*, a manuscript compiled by B.F. Matthes in 1860. This article aims to explore how the *Makassaarsche Chrestomathie* manuscript addresses cases of homicide, adultery, and inheritance, and how the formulations and substantive contents of those customary legal norms are integrated with Islamic law. This study adopts a philological approach, employing interviews and document

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analysis as data collection methods. Content analysis and qualitative analysis are used to interpret the findings. The study reveals that: *First*, the manuscript outlines specific customary legal concepts, including *puli* (retaliatory killing) and *sapu* (paying compensation) related to homicide, *sikatinroang* (sleeping together) in the context of adultery, and *tawa rua* (men and women have an equal share) regarding inheritance. *Second*, there are both substantive and normative integration between customary law and Islamic law, although each retains its own distinctive features and conceptual uniqueness. Concepts *puli* and *sapu* indicate parallel Islamic *qisās* and *diyah* concepts. *Sikatinroang* has the same meaning as adultery or *zinā* in Islamic law. However, there are differences between customary law in inheritance distribution, which recognizes equal status between men and women, while Islam recognizes the concept of proportion.

Keywords:

Makassaarsche Chrestomathie; Customary law; Islamic law;
Integration of customary and Islamic law

Introduction

The enactment of Law Number 1 of 2023 concerning the National Criminal Code (KUHP) represents a paradigm shift in the Indonesian criminal justice system. One of the key pillars of this change lies in Article 2, which explicitly recognizes the existence of "living law". Living law in the Criminal Code refers to customary law, which in Makasar, remains alive and is adopted as a norm by the local community. Makassar customary law is documented, among other things, in the *Makassaarsche Chrestomathie Manuscript*. The manuscript is categorized as ancient and considered a valuable cultural artifact of ancestral heritage. It preserves historical knowledge, legal traditions, and past societal values.¹

Makassaarsche Chrestomathie Manuscript encompasses a broad range of legal themes, including homicide, morality, theft, trade, compensation, labor relations, and inheritance. Among these, homicide, adultery, and inheritance are selected for deeper analysis in

¹ Safoan Abdul Hamid, "Penerjemahan Manuskrip di Lombok: Suatu Usaha untuk Memahami Nilai Budaya Sasak," *Mabasan* 7, no. 2 (2013): 75–83, <https://doi.org/10.62107/mab.v7i2.178>.

this paper due to their contemporary relevance in society. Discussions about murder are crucial for reaffirming human rights and the limits of law enforcement. The issue of adultery is now relevant, given the changing views of the younger generation regarding moral commitment and various new challenges facing the family institution. Inheritance issues are particularly relevant because they concern economic security and strategies for preventing family conflict and ensuring equitable wealth distribution. Each issue is examined through the dual lens of customary law and Islamic law.

Besides, this ancient manuscript is considered a valuable cultural artifact of ancestral heritage. It preserves historical knowledge, legal traditions, and past societal values. Matthes is a Dutch theologian and Arabic linguist who not only collected scattered manuscripts from Bugis or Makassar communities but also initiated the standardization of the Lontara script for Bugis and Makassar in the Netherlands.²

Despite the *Makassaarsche Chrestomathie* containing extensive cultural and legal insights about Makassar society, its reach within contemporary academic and public discourse remains limited. Several researchers have conducted studies referring to the *Makassaarsche Chrestomathie* manuscript as a source. They are Sugira Wahid, with his book "*Manusia Makassar*", but he only raises the characteristics of the Makassar people in general.³ Previously, Mattulada had also written about the history of Makassar.⁴ Finally, Mappaselleng studied it in relation to customary law as a legal value that lives in society (living law), especially murder.⁵ From such research, it can be seen that each study's limitations are evident. Sugira Wahid's study does not specifically address Makassarese customary law, while Mattulada's study focuses solely on the historical emergence of the Makassarese in local history. Mappaselleng, meanwhile, discusses murder and adultery but omits inheritance law and does not relate it to Islamic law.

² Campbell Macknight, Mukhlis Paeni, and Muhlis Hadrawi, *The Bugis Chronicle of Bone* (Canberra: ANU Press, 2020).

³ Sugira Wahid, "Pengungkapan dan Pemantapan Jati Diri dan Kearifan Lokal," in *Kongres I Bahasa-Bahasa Daerah Sulawesi Selatan* (Makassar, 2007).

⁴ Mattulada, *Menyusuri Jejak Kehadiran Makassar dalam Sejarah* (Yogyakarta: Ombak, 2011).

⁵ Mappaselleng Nur Fadhilah, *Penguatkuasaan Undang-Undang Jenayah dan Siri' di Sulawesi Selatan* (Yogyakarta: Arti Bumi Intaran, 2019).

The relationship between customary law and Islamic law in Bugis communities was implicitly addressed by Mattulada in his seminal work *Latoa*. He concluded that to maintain the unity of the kingdom and society, customary law (*ade'*) and Islamic law (*asy-syari'ah*) were integrated into a cultural system called *pangngadakkang* (Makassar) or *pangngaderreng* (Bugis).⁶ This integration has been in place since the early 17th century, following the arrival of Islam in South Sulawesi.⁷ Such integration – both explicit and implicit – is also evident in the *Makassaarsche Chrestomathie*, where customary and Islamic legal norms are juxtaposed and interwoven. Thematic explorations of integration, harmony, and alignment between Islamic and customary law have also appeared in other regions of Indonesia. Zainuddin⁸ and Zahid⁹ argue that this confluence forms the basis of Indonesia's unique Islamic legal identity.

On the other hand, customary law constitutes evolving normative orders rooted in community practices, often unwritten but binding through social consensus. Islamic law derives from the Qur'an, sunnah, and *ijtihad*, with sharia providing comprehensive divine guidance. While customary law operates through communal recognition, Islamic law combines revelatory sources with juristic interpretation, reflecting distinct yet sometimes intersecting legal philosophies.¹⁰ Sharia constitutes divine principles governing Muslim life, while *fiqh* represents human scholarly interpretation (*ijtihad*) of these principles derived from the Qur'an and Sunnah.¹¹

⁶ Latoa Mattulada, *Satu Lukisan Analitis terhadap Antropologi Politik Orang Bugis* (Yogyakarta: Universitas Gadjah Mada Press, 1985).

⁷ Ahmad Abd Kadir, *Gowa, Islam, dan Integrasi Sosial di Sulawesi Selatan* (Makassar: Kreatif Lenggara, 2015).

⁸ Zainuddin, Juselim Sammak, and Salle, "Patuntung: The Encounter of Local Culture and Islamic Sharia in the Ammatoa Aajang Community," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 18, no. 1 (2023): 177–99, <https://doi.org/10.19105/al-lhkam.v18i1.8207>.

⁹ Moh Zahid, "Perpaduan Hukum Islam dan Hukum Adat (Upaya Merumuskan Hukum Islam Berkepribadian Indonesia)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 1, no. 1 (2006): 57–68, <https://doi.org/10.19105/al-lhkam.v1i1.2552>.

¹⁰ Jefik Zulfikar Hafizd, "Sejarah Hukum Islam di Indonesia: dari Masa Kerajaan Islam Sampai Indonesia Modern," *Tamaddun: Jurnal Sejarah dan Kebudayaan Islam* 9, no. 1 (2021): 165–84, <https://doi.org/10.24235/tamaddun.v9i1.8087>.

¹¹ Dri Santoso, *Ontologi Hukum Islam Pendekatan Sejarah dan Problematika Kontemporer* (Yogyakarta: Idea Press Yogyakarta, 2021).

The study examines the integration of customary and Islamic laws in the *Makassaarsche Chrestomathie* manuscript, particularly focusing on homicide, adultery, and inheritance cases. All three are very sensitive cases and determine order and harmony in society and family. The manuscript reveals how Makassarese society historically institutionalized the *pangadakkang* (customary system) framework, harmonizing customary and Islamic law through concepts like *puli* (retaliatory killing) and *sapu* (compensation) that parallel the Islamic *qiṣāṣ* and *diyāh* concept. Raising the issues of murder, adultery, and inheritance based on the perspective of Makassar customs and Islamic Law from the *Makassaarsche Chrestomathie* manuscript at the same time shows the novelty of this study that distinguishes it from previous studies.

This study focuses on customary legal norms found in a historical manuscript from Makassar society titled *Makassaarsche Chrestomathie*, a compilation assembled by Benjamin Frederick Matthes. It presents various aspects of Makassarese culture and history. Among its contents are *Vezameling Van Inlandsche Wetten* and *Eenige Historische Stukken Uit Den Rapang*, which respectively translate to “a collection of native laws” and “a number of historical excerpts from Rapang” – a term referring to messages from elders and ancestral figures.¹² This section is the focus of this research.

The overarching problem investigated is the integration of customary law and Islamic law, both in normative formulations and substantive principles, as expressed in the *Makassaarsche Chrestomathie*. More specifically, the research seeks to answer the following questions: how does the *Makassaarsche Chrestomathie* manuscript frame cases of homicide, adultery, and inheritance in Makassar society, and in what ways are the customary law formulations and substance related to these issues integrated with Islamic legal principles? The objectives of this study are, firstly, to extract manuscript-based legal norms regarding homicide, adultery, and inheritance as practiced within the local community. Secondly, to analyze the alignment between customary law and Islamic law in addressing these key legal issues.

¹² Benjamin Frederik Matthes, “Makassaarsche Chrestomathie: Oorspronkelijke Makassaarsche Geschriften,” in *Proza En Poëzy Uitgegeven* (Zurich: Muller, 1860).

Methods

This research employs a qualitative methodology and philological approach, which is a standard strategy in manuscript studies (manuscript inventory, description, and transliteration) combined with content analysis of the *Makassaarsche Chrestomathie*, including *Vezameling Van Inlandsche Wetten*, which consists of 683 pages and 17 chapters and is referred to from the translation of *Makassaarsche Chrestomathie* from Abd. Kadir's works.¹³

The *Makassaarsche Chrestomathie* was published in Leiden, Netherlands, in 1860. This anthology was collected from original manuscripts and preserved in the original Makassarese language and script called Lontara. Among its content is *Vezameling Van Inlandsche Wetten*, which means "a collection of native laws", the fourth chapter.

This manuscript is rarely found and is owned by a very limited number of individuals. However, its substance is widely known in society because it represents customary law that has been culturally and socially preserved from generation to generation. The appearance of the manuscript is shown in Figure 1.

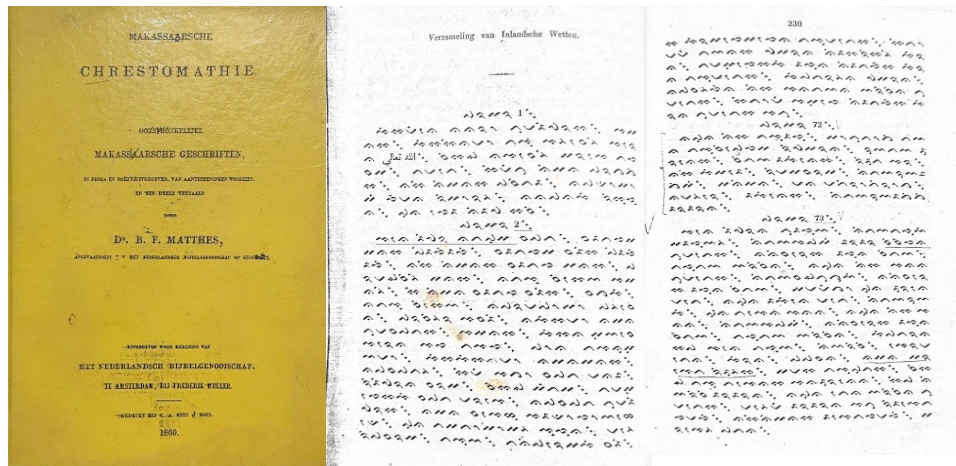


Figure 1. *Makassaarsche Chrestomathie* Manuscript

¹³ Abd Kadir Ahmad, Nur Fadhilah Mappaselleng, and Syarif Saddam Rivanie Parawansa, *Vezameling van Inlandsche Wetten: Koleksi Hukum Pribumi* (Yogyakarta: Arti Bumi Intaran, 2022).

As for the data gathering relies on the examination of documents as evidence that transcends both geography and time, originating from the author and its consumers. The content analysis method consists of the stages of description, classification, and connection. Eight informants were interviewed to confirm how the community still adheres to the norms in the *Makassaarsche Chrestomathie* manuscript, as mentioned in Table 1.

Table 1. The Informants

No	Initial	Position
1	AH	Traditional Figure
2	AM	Religious Figure
3	TJ	Religious Figure
4	SY	Traditional Figure
5	MR	Traditional dan Religious Figure
6	ARZ	Indigeneous People
7	ARJ	Indigeneous People
8	NS	Female Figure

Results and Discussion

Makassar Customary Law in Makassaarsche Chrestomathie on Homicide, Adultery, and Inheritance

Homicide, in the Makassarese Customary Law (henceforth abbreviated as HAM - Hukum Adat Makassar), is generally subject to two main forms of punishment: *puli* (retaliatory killing) and *sapu* (compensatory payment). Related to the practice of homicide in society, AH said:

“...In 1968, a man with the initials RM was attacked by several individuals from the same family. During the brawl, one attacker—initials SB—was fatally stabbed with a *badik* (a traditional Makassarese dagger). Some family members attempted to carry out *puli*, but were stopped by a village elder, who intervened and took over the matter. The assailant was later sentenced to several years in prison...”

The concept of *puli* in Makassar tradition can be seen in Makassar customary law contained in the *Makassaarsche Chrestomathie* manuscript as shown in Table 2.

Table 2. Homicide in an Ancient Manuscript: the *Makassaarsche Chrestomathie*

No	Sources	Statement	Meaning
1	Article 14	<i>inrang nyawa nibayaraki nyawa, inrang cerak nibayaraki cerak, inrang uang nibayaki uang.</i>	A life debt is paid with a life, a blood debt with blood, and a monetary debt with money
2	Article 9	<i>Punna niak para maradeka abbeserek nasitobok nanibuno sitau nanirapik ribijanna laloi nipappuli, napunna larimo mange riballakna tumabbicaraya talaloami nipappuli nasapu mami.</i>	If two free men are engaged in a fight, stabbing one another, and one of them dies, then the family of the deceased may carry out retaliatory killing (<i>puli</i>). However, if the perpetrator surrenders to the <i>pabbicara</i> (the authority), then he shall not be killed but instead shall pay compensation (<i>sapu</i>).
3	Article 10	<i>Punna niyak anaq karaeng sala nani buno ritau samarak nani gappa nipappuli napunna lari mange ri tumabbicaraya tannipappuliyai napunna tannakulleya nabayarak sapuna tunabunowa naturungangi anaqna bainenna lanrina tau irataeyangna nabuno.</i>	If a noble child commits a wrongdoing and is killed by a commoner, he is liable to <i>puli</i> . If the commoner surrenders to the authority, he must pay <i>sapu</i> . If he is unable to pay, then his children or wife must share the burden of compensation, because the person he killed was of higher status.

Source: In a book entitled *Vezameling van Inlandsche Wetten Koleksi Hukum Pribumi*

It can be seen from Table 1 that *puli* (retaliatory killing) is based on a general principle as stated in Article 14 of HAM (Makassar customary law), where taking life, shedding blood, and borrowing money are seen as debts that must be paid with the same payment, namely life for life, blood for blood, and money for money. The application of these punishments is further explained in Article 9 (see Table 1). This provision distinguishes between two types of offenders, those who do not surrender to the *pabbicara* (local authority or judicial figure), and those who do. The first category is liable to *puli*, i.e., a retaliatory killing carried out by the victim's family (*tumasirik*—literally, “the shamed ones,” referring to the family or kin of the victim). The second category, having surrendered, is required to pay monetary compensation (*sapu*) to the victim's family.

An exception to the *puli* rule is found in Article 11, which addresses cases involving a noble killing a slave. This article exempts nobles from *puli* punishment when killing someone of lower status—even if they did not surrender—applying only the less severe *sapu*. By contrast, Article 10 describes a reversed scenario. Here, not only does the commoner face the death penalty (*puli*), but failure to surrender results in the full application of the retaliatory killing, while surrender leads to *sapu*, which may also burden the offender's family—an intergenerational liability not uncommon in stratified societies. This is where the shortcomings of Makassar customary law lie, which treats people differently and only applies to the era when indigenous communities still adhered to a strict social strata system. Article 15 delineates an exception whereby, in instances of provocation (*appaturung*) followed by retaliatory action (*ajjallok*) that results in a fatality, it can shift culpability.

Besides murder, adultery is also an act that carries severe penalties in society. AM stated:

“...A man was murdered after being suspected of sexually harassing a young girl from his wife's extended family. Her relatives, after days of surveillance, took matters into their own hands and executed him...”

In Makassarese customary law, adultery is referred to as *sikatinroang*, literally meaning “sleeping together.” The term is a

euphemism used in place of the more direct word for *zinā* (unlawful sexual relations). The provisions regarding adultery can be seen in Table 3.

Table 3. Adultery in an Ancient Manuscript: the *Makassaarsche Chrestomathie*

No.	Sources	Statement	Meaning
1	Article 50	<i>Punna niak tau akkana riburaknea, embai bainennu, namanna tau nipatappak mamu angkanangi anjo kanaya, tamakkulleai niak gaukna buraknea kapauji nirapikampi sikatinroang nalalomo ammuno napunna mangemo ri tumabbicaraya iareka narianrong taua talaloami nibunoi.</i>	If someone tells a man that his wife has committed adultery, even if the source is trustworthy, he must not take immediate action, as this is only an allegation. Only if the man and woman are caught in the act of sleeping together (<i>sikatinroang</i>), may the act of killing be justified. However, if the adulterers surrender themselves to the <i>tumabbicara</i> (legal authority), they must not be killed.
2	Article 52	<i>Punna niyak tau emba namange ribicaraya nanituntungi ribicaraya pimbali-bali napunna tojengmo gaukna assuro bunowi buraknennna assuro arekai anracungi tamakkulleyami nitallassi tanipalalotonganngami aknganro.</i>	If a woman is found guilty of adultery, and the case is brought before the court, and it is proven that she solicited or conspired with another person to kill or poison her husband, she must be executed. She shall not be pardoned, even if she pleads for mercy

No.	Sources	Statement	Meaning
3	Article 56	<i>Punna niyak tau erok angkaembai bainenna tauwa nateya baineya nanngaruk nanilanngerok ritauwa naniturungi nani rapik ritauwa salai burakneya naiya nipassalangi balli pasarakna nanisareyang patanna baine eroka nikaembai.</i>	If a man attempts to seduce a married woman, and she resists and cries, and this is witnessed by others, he must pay a fine equivalent to her "market value" to her husband. If a man was murdered after being suspected of sexually harassing a young girl from his wife's extended family, then her relatives, after days of surveillance, took matters into their own hands and executed him.

Source: In a book entitled *Vezaeling van Inlandsche Wetten Koleksi Hukum Pribumi*

It can be seen from Table 3 that *Sikatinroang* offense specifically refers to a married woman engaging in sexual relations with another man. This article does not apply to unmarried. Punitive action is considered legitimate only when the act is directly witnessed, whereas unverified hearsay (*pau*) does not constitute sufficient grounds to justify the punishment, if caught *in flagrante delicto* (caught in the act), both adulterers may be killed by the victim's family (*tumasirik*). If the accused surrenders to the authorities, they are spared execution and must instead pay *sapu mate* (a compensation equal to the value of their life), which is handed over to the aggrieved husband.

Another capital offense related to adultery involves a wife conspiring to murder her husband to pursue an illicit relationship with another man (as outlined in Table 2, Article 52). In this case, the death penalty is non-negotiable and no compensation (*sapu*). This contrasts with other forms of adultery, where compensation might suffice in lieu of execution.

The conclusion regarding adultery is that a man or woman who commits adultery while both are caught in the act can be sentenced to death by man's or woman's family. However, if the perpetrator surrenders to the authorities, the punishment is a fine or compensation (*sapu*). Meanwhile, all forms of inappropriate behavior against women, like cat calling, flatter, touch, and other form of sexual harassment, whether married or virgin, are subject to the compensation punishment (*sapu*).

As for inheritance in the *Makassaarsche Chrestomathie*, there are three key terms related to the transfer of property from a deceased person to their heirs or others: *pappiturung*, *passare silalo lima*, and *pappasang*. These terms appear in Article 69. *Pappiturung* refers to inheritance, *passare silalo lima* (literally "hand-to-hand transfer") refers to gifts or grants made during one's lifetime, and *pappasang* (meaning "message" or "instruction") denotes a will or testamentary bequest. Both *pappiturung* and *passare silalo lima* are executed while the grantor is still alive. In contrast, *pappasang* is realized after the grantor's death, at which point the designated recipient becomes entitled to the bequeathed property.¹⁴

In contemporary customary practice, inheritance during the lifetime of the parent (*inter vivos*) remains common. According to a community elder in Gowa, inheritance is typically distributed before the death of the parent. TJ said:

"...Parents often distribute their assets to their children once they are married. These assets serve as their livelihood. Upon the parents' death, most property has already been divided. What remains is either allocated to the most dutiful child or reserved to cover funeral expenses (*taja mate*). Sometimes the division is formally recorded by the parents themselves..."

This practice is also documented in the *Makassaarsche Chrestomathie*, wherein Makassar customary law systematically codifies the principles and procedures governing the distribution of inheritance among heirs, as illustrated in Table 4.

¹⁴ Matthes, "Makassaarsche Chrestomathie: Oorspronkelijke Makassaarsche Geschriften."

Table 4. Inheritance in an Ancient Manuscript: the *Makassaarsche Chrestomathie*

No	Sources	Statement	Meaning
1	Article 71	<i>Punna niak tau akkalabini namatemo sitau burakneaka baineaka naniak inrang kalekalennna tau matea iyatommami tawanaya cakkarakna nibayarriangi inranna.</i>	If there are people in a family (husband and wife), then one of them dies, whether male or female, and one of them has debts for himself, then it must be paid from his own cakkaraq (the results of the division of joint property).
2	Article 72	<i>Napunna niak tau balu kontu tonji tawana tau sipelaka ricakkarakna ruwang tawang burakneya sitawang bainya ributta arab naiya ikambe rimangkasaraka nitawa ruwabajiki.</i>	If there is a widow/widower, the cakkaraq is divided in the same way as for divorced people, two parts for the man and one part for the woman in Arab countries. As for us, the Makassarese, it is divided exactly in two
3	Article 74	<i>Punna niak tau akkalabini nassipelak paranaallei anu silsilana barang-barangna anu kalekalennna nanitawamo cakkakrana nanitawamo pole anakna.</i>	When a family member divorces, each person takes their property, belongings, and personal belongings, and then divides their joint property, including their children.

Source: In a book chapter entitled *Makassaarsche Chrestomathie Oorspronkelijke Makassaarsche Geschriften*

It can be seen from Table 4 that Makassarese customary law, particularly in Articles 71–74, governs inheritance (*pappiturung*), marital property, and debt. Inheritance rules vary by marital status and offspring, with childless estates often transferred to the *Bait al-Māl*.

Only net assets—after funeral costs, debts, and bequests—are distributed. Marital property is divided into *anu kalekalenna* (personal) and *cakkarak* (joint); upon divorce, personal property is returned, while *cakkarak* is shared with children. Debts are paid from *cakkarak*, and descendants are responsible for parental liabilities. Uniquely, Makassarese law mandates equal inheritance for men and women, diverging from Islamic norms.

This reflects a long-standing differentiation between Islamic inheritance law, often called “Arab land law,” which follows the 2:1 male-to-female ratio, and Makassarese customary law, which promotes equal division (1:1) between men and women. In practice today, two systems coexist; customary inheritance tends to be practiced informally and socially, and Islamic inheritance applies formally in the Religious Court system. It is clear from these three aspects (murder, adultery, and inheritance) that Makassar customary law has its own uniqueness. In the case of murder, for example, two concepts are the main values that must be used as principles, namely the *puli* (death penalty) and the *sapu* (compensation punishment). In the aspect of adultery, local customary law places great emphasis on witnessing with one's own eyes for acts of sexual relations that violate these norms. Meanwhile, in the aspect of inheritance, Makassar customary law treats men and women the same.

Integration of Makassarese Customary Law and Islamic Law

Related to the integration of Makassarese Customary Law and Islamic Law, the *Pangngadakkang* or *Pangngaderreng* framework institutionalizes the integration of customary (*adaq*) and Islamic (*syaraq*) law in South Sulawesi. Lontara manuscripts identify five pillars: *adeq* (customary norms), *rapang* (precedents), *wariq* (social order), *bicara* (judicial process), and *syaraq* (Islamic law).¹⁵ A historic Charter of Agreement mandates mutual recognition: “Syariah respects adat, and adat honors syariah.” This synergistic system employs *adat* for community-based disputes and *syaraq* for unresolved cases, particularly in homicide, adultery, and inheritance matters.¹⁶ The framework demonstrates how indigenous legal traditions and Islamic jurisprudence co-evolve while maintaining distinct functional domains within Makassarese society.

¹⁵ Mattulada, *Satu Lukisan Analitis terhadap Antropologi Politik Orang Bugis*.

¹⁶ Fadhilah, *Penguatkuasaan Undang-Undang Jenayah dan Siri' di Sulawesi Selatan*.

The integration of Islamic law and Makassar customary law among the community in the context of murder was stated by ARJ:

“...According to custom, the punishment for murder is an equivalent murder. That's the message from our elders. Similarly, in Islamic law, retribution is meant to cover up mistakes. However, there's something called covering one's dignity, if an equivalent murder cannot be committed. The government regulates this, either through imprisonment or a fine...”

Islamic jurisprudence distinguishes between intentional and unintentional homicide. Intentional murder (*qatl*) involves premeditated killing. Unintentional homicide (*qatl khata'*) arises from negligence or accident.¹⁷ The primary punishment for intentional homicide is *qiṣās*—a law of equal retaliation—is found in the Qur'an: “O you who believe! Retaliation is prescribed for you in cases of murder...” (Q.S. Al-Baqarah [2]: 178) And We ordained for them therein a life for a life, an eye for an eye...” (Q.S. Al-Ma'idah [5]: 45).¹⁸

If *qiṣās* or *qitāl* is forgiven by the victim's family or resolved through reconciliation, it is replaced with *diyāh* (blood money) and/or *ta'zīr* (discretionary punishment), the latter imposed by state judicial authorities.¹⁹ *Qiṣās* serves as a proportional punishment meant to deter violence and restore justice.²⁰ It functions both as a retributive and

¹⁷ Ebrahim Ghodsi, “Murder in the Criminal Law of Iran and Islam,” *The Police Journal* 68, no. 2 (1995): 160–69, <https://doi.org/10.1177/0032258X950680020>.

¹⁸ Departemen Agama Republik Indonesia, *Al-Qur'an an dan Terjemahan* (Jakarta: Al-Muhaimin, Yayasan Penyelenggara Penterjemah Al-Qur'an, 2002).

¹⁹ Mohammad Hifni, Ujang Hibar, and M. Nassir Agustiawan, “Tindak Pidana Pembunuhan dalam Hukum Pidana Islam dan Hukum Pidana Positif,” *Jurnal Res Justitia: Jurnal Ilmu Hukum* 3, no. 2 (2023), <https://doi.org/10.46306/rj.v3i2.84>; Annisa Hafizhah et al., “Capital Punishment: Islamic Criminal Law Perspective,” *Mahadi: Indonesia Journal of Law* 2, no. 2 (2023): 134–41, <https://doi.org/10.32734/mah.v2i2.13412>.

²⁰ Ahmad Muhammad Husni et al., “Relationship of Maqasid al-Shariah with Qisas and Diyah: Analytical View,” *The Social Sciences* 7, no. 5 (2012): 725–30, <https://doi.org/10.3923/sscience.2012.725.730>.

preventive mechanism.²¹ Its philosophy lies in the equivalence between crime and punishment.²²

The concept of *puli* in Makassar customary law, for example, murder in retaliation, bears substantial similarities to *qiṣāṣ* in Islamic law. Both are understood as the original or primary punishment for murder. The concept of *sapu* (compensation) in customary law is also parallel to *diyyah* in Islam. However, there are key differences. Customary law does not distinguish between intentional and unintentional killings, while Islamic law does. In HAM (Makassar Customary Law), *puli* is carried out by the victim's relatives (*tumasirik*), and *sapu* is regulated by *pabbicara* (customary authority). In contrast, Islamic law entrusts the implementation of *qiṣāṣ*, *diyyah*, and *ta'zīr* to formal state judicial bodies. Therefore, the difference between customary law and Islamic law is that customary law assigns punishment and fines to the party who suffers the shame (the victim), while Islamic law leaves it entirely to institutions.

Another divergence lies in social stratification. Makassarese customary law applies *puli* differently based on social status. If a noble (*karaeng*) kills a commoner (*tusamarak*) or slave (*ata*), *puli* is not applied; the offender pays *sapu* instead. Conversely, if a commoner or servant kills a noble, they are subject to *puli*. If they manage to surrender, *sapu* may apply. If they die or cannot pay, the obligation passes to their descendants. Islamic law, by contrast, upholds legal equality. As asserted in a Hadith narrated by Bukhari and Muslim: "By Allah, if Fatimah, the daughter of Muhammad, were to steal, I would cut off her hand."²³ Therefore, Islamic law does not consider social class, whereas customary law does.

Interestingly, both *qiṣāṣ* in Islamic Law and *puli* in Makassarese share similarities with the Code of Hammurabi, which also emphasized *lex talionis* (*the law of retaliation*) rather than imprisonment: "If a man put out the eye of another man, his eye shall be put out." (Article 196).

²¹ Muslich Wardi Ahmad, *Pengantar dan Asas Hukum Pidana Islam Fikih Jinayah* (Jakarta: Sinar Grafika, 2004).

²² Zikri Darussamin, "Qisas dalam Islam dan Relevansinya dengan Masa Kini," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 48, no. 1 (2014): 99–130, <https://doi.org/10.14421/ajish.v48i1.82>.

²³ Andi Suseno Andi, "Persamaan Persamaan Hak di Hadapan Hukum Persepektif Hadis Nabi (Kajian Sosio Historis-Kontekstualis)," *Khulasah: Islamic Studies Journal* 5, no. 1 (2023): 20–38, <https://doi.org/10.55656/kisj.v5i1.90>.

"If a man knocks out the teeth of his equal, his teeth shall be knocked out".²⁴ These formulations echo both the Qur'anic prescriptions and the Makassarese *puli* principle, which reads: *Inrang nyawa nibayaraki nyawa, inrang cerak nibayaraki cerak, inrang uang nibayaraki uang* ("A life debt is paid with a life, a blood debt with blood, and a monetary debt with money.")

As for adultery, in Islamic law, all forms of sexual relations outside a legitimate marriage (*zinā*) are classified as major offenses.²⁵ *Zinā*, in *fiqh* terminology, refers to intercourse committed by a man or woman without a valid marital contract. Drawing on the Qur'an and Hadith, Islamic jurisprudence classifies *zinā* into two categories: *zinā* committed by a married individual and *zinā* committed by an unmarried individual. Each carries a different punishment: the former is punishable by stoning (*rajm*) until death, while the latter is punished by flogging.²⁶ These rulings are based on Surah An-Nur (24), which outlines in detail the consequences for committing *zinā*.²⁷

Regarding the practice of sanctions for murder, which resembles the law of stoning in Islam, namely, by the woman's family throwing stones together, NS said:

"...In 2011, a man was caught committing adultery with another man's wife in a village in Gowa Regency. He was stoned to death by the woman's family members. Although the woman escaped, her lover was killed in a manner resembling *rajm*. The perpetrators were later sentenced to 12 years in prison by the local district court..."

²⁴ Ahmad, Mappaselleng, and Parawansa, *Vezameling van Inlandsche Wetten: Koleksi Hukum Pribumi*.

²⁵ Ziba Mir-Hosseini, "Criminalising Sexuality: Zina Laws as Violence Against Women in Muslim Contexts," *International Journal on Human Rights* 8, no. 15 (2011): 1-33, https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/surij8§ion=19.

²⁶ Aisyah Cinta Putri Wibawa et al., "Islamic Law and National Law in the Perspective of Zina Crime Settlement in Indonesia," *Khuluqiyya: Jurnal Kajian Hukum dan Studi Islam* 5, no. 6 (2023): 57-68, <https://doi.org/10.56593/khuluqiyya.v5i1.99>.

²⁷ Hassan M Ahmad, "Re-Assessing the Evidentiary Threshold for *Zinā*'in Islamic Criminal Law: A De Facto Exemption Proposal," *Muslim World Journal of Human Rights* 8, no. 1 (2021): 1-30, <https://doi.org/10.1515/mwjhr-2020-0021>.

SY echoed this sentiment, noting that religion and tradition are united by a deep sense of self-respect and shame (*siri'*) when family honor is tarnished. SY stated:

“...In the cultural context of Makassar, defending *siri'* is seen as defending religion itself. Any interaction between an unrelated man and woman without lawful marriage is a violation of *siri'*, which is equated with a breach of divine order. “*Siri'* and religion are *kuntutojeng* – sources of truth that must guide society...”

Likewise, MR's view when he said:

“...Adultery is included in the *Siri* category among Makassar people; in religious language, it is the same as self-respect or shame as part of the faith. So, if we carry out *Siri'* actions, it means we are carrying out religious demands...”

Due to the seriousness of the offense, Islamic law demands strong evidence, typically the testimony of four eyewitnesses, to convict someone of *zinā*. This high threshold plays a crucial role in Islamic criminal justice systems, particularly in Muslim-majority countries where *zinā* is criminalized.²⁸ In fact, false accusations of adultery (*qadhf*) carry severe penalties, and any unsubstantiated claim is considered a form of slander (*fitnah*).²⁹ Makassar customary law is in harmony with Islamic law in terms of Makassar customs, which regulate adultery, and both stipulate the punishment of stoning (*rajm*).

A further point of convergence between the two systems involves the issue of incest, known in HAM as *salimarak*. This act is likewise prohibited in Islam and considered equivalent to *zinā*, as articulated in Surah An-Nisa (4): 23, which lists *mahram* (prohibited degrees of kinship). Thus, whether within or outside of marriage, incest

²⁸ Ahmad.

²⁹ Supriani and Wawan Saputra, “*Jarimah Qadzaf (Menuduh Zina) Studi Komparasi Hukum Pidana Islam dan Hukum Positif Indonesia*,” *Jurnal Darussalam: Pemikiran Hukum Tata Negara dan Perbandingan Hukum* 1, no. 1 (2021): 1-19, <https://doi.org/10.59259/jd.v1i1.2>.

is strictly *ḥarām* and subject to the same punishment as *zinā*.³⁰ However, Islamic law does not specify whether incest is to be punished by *rajm* or flogging, while customary law prescribes a ritual drowning known as *ladung*, wherein the offender's body is weighed down with a stone and cast into the sea. Particularly, no empirical data have been identified within the contemporary period.

Inheritance (*al-mawārīs*) refers to the transfer of a deceased person's estate to their legal heirs. It involves the wealth or property left behind, the individuals entitled to it, the proportion of each heir's share, and the procedural mechanism for distribution.³¹ Related to the practice of inheritance in society, ARZ said:

“...In societal practice, the parents make the arrangements before the death to avoid conflict between the children. Unless there's a problem, traditional and religious leaders sit down together to divide the deceased's inheritance. According to custom, the share for men and women is equal. If this still can't be resolved, the matter is referred to the religious court...”

The experience of inheritance distribution was also told by AH, who said:

“...I once resolved a case where a woman passed away, and her husband had a son from his previous marriage. I separated their individual properties first. Then, the jointly owned property – land and house – was sold. The money was divided evenly: half to the wife and half to the son of the deceased. But before the division, we deducted the debts and funeral expenses...”

The essential components of inheritance include: the decedent (*al-muwarriṣ*), the estate, and the heirs (*al-wāriṣ*). In Islamic law, the primary sources for inheritance rules are the Qur'an, Hadith, and the

³⁰ Hasbi Umar, Husin Bafadhal, and Ika Rusmayanti, “Kedudukan Hukum Anak Lahir Diluar Nikah dari Hubungan Sedarah (Incest) Menurut Hukum Islam dan Hukum Positif,” *ADHKI: Journal of Islamic Family Law* 4, no. 1 (2022): 35–45, <https://doi.org/10.37876/adhki.v4i1.120>.

³¹ Umar, Bafadhal, and Rusmayanti.

ijtilhād of scholars.³² Islamic inheritance law has been codified into Indonesia's positive legal system, particularly through the Compilation of Islamic Law.³³

One of the foundational principles of Islamic inheritance is the principle of proportional justice, wherein a male receives twice the share of a female, as stated in Surah An-Nisa' (4):11. Philosophically, this ratio reflects the heavier economic and familial responsibilities assigned to men in Islamic law³⁴ and the proportional rights accorded to both genders.³⁵ Recognition of Islamic law in customary tradition is seen in Article 72 of the *Makassaarsche Chrestomathie*, which notes: "Ruang tawang buraknea, sitawang bained" two parts for the man, one for the woman – is said to apply in Arab (Islamic) lands. However, the same article also declares: "For us Makassarese, we follow the rule *bage rua* (equal halves)," – meaning equal distribution between male and female heirs.

Makassarese inheritance law enriches the diversity of Indonesia's legal traditions and their interactions with Islamic law. In Lombok, for example, the Sasak community aims to eliminate perceived injustices by valuing inheritance in terms of utility rather than strict quantity.³⁶ In Jambi Malay tradition, daughters receive more

³² Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, "Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective," *Al-Ahkam* 34, no. 2 (2024): 419–50, <https://doi.org/10.21580/ahkam.2024.34.2.20843>.

³³ Abdulmajeed Hassan Bello, "Islamic Law of Inheritance among the Yoruba of Southwest Nigeria: A Case Study of Dar Ul-Qadha (Arbitration Panel)," *Journal of Islamic Law* 5, no. 1 (2024): 44–61, <https://doi.org/10.24260/jil.v5i1.2058>.

³⁴ Emilda Firdaus et al., "Has Women's Participation in Local Government Been Strengthened? A Legal and Political Analysis in Riau Province?," *Journal of Indonesian Legal Studies* 9, no. 1 (2024): 155–86, <https://doi.org/10.15294/jils.vol9i1.4540>; Rahmi Hidayati et al., "Flexibility of Women's Inheritance Distribution in Jambi Malay Society: Compromising Islamic and Customary Law," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (2024): 42–61, <https://doi.org/10.22373/ujhk.v7i1.22038>.

³⁵ Muthoifin et al., "Bibliometric Analysis of the Socialization of Islamic Inheritance Law in the Scopus Database and Its Contribution to Sustainable Development Goals (SDGs)," *Journal of Lifestyle and SDGs Review* 5, no. 2 (2025): 1–24, <https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe03057>.

³⁶ Muhammad Fikri, "Reform of The Inheritance System : Between Islamic Law and Tradition of Sasak Tribe," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (2024): 197–211, <https://doi.org/10.18860/j-fsh.v16i1.26354>.

than sons.³⁷ In Minangkabau society, ancestral property (*pusaka*) is inherited exclusively by daughters, with sons excluded entirely.³⁸ Meanwhile, in Makassar itself, this enrichment is evident in the diversification of practices, with customary law, Islamic law, or a combination of the two.

The integration of Islamic and customary inheritance laws is evident in Article 73, which states, "if the husband dies, the estate is divided into eight parts: the wife receives one part, and the remaining seven go to the children. If the wife dies, the estate is divided into four parts: the husband receives one, and the rest go to the children."

This mirrors the distribution found in Surah An-Nisa (4):12, showing clear convergence between the two systems. Further integration is found in the localization of Islamic legal terminology in customary law. *Wasiat* becomes *pappasang*, *hibah* becomes *passare silalo lima* (hand-to-hand gift), and *warisan* becomes *pappiturung* or *sossorang*, as seen in Article 69. The main distinction is that customary inheritance can occur during the lifetime of the benefactor, as stated in Article 67, whereas Islamic inheritance only takes effect after death. Another point of divergence is in the principle of liability. Islamic law adheres to the principle of *ijbari*: heirs are not responsible for the debts of the deceased using their personal wealth.³⁹ Customary law, however, holds that: "assets left behind are inherited, and debts left behind must also be inherited."

Conclusion

This study contributes to the revitalization of manuscript heritage as a valuable cultural and intellectual legacy from the past. The legal formulations and normative content contained within the *Makassaarsche Chrestomathie* reflect not only an idealized framework for social order in historical Makassar society but also serve as a potential source of enrichment for future legal systems. The Makassarese

³⁷ Nuraida Fitri Habi and Atho Mudzhar, "Women, Islamic Law and Custom in Pucuk Induk Undang Nan Limo Manuscript of Jambi," *Ahkam: Jurnal Hukum Islam* 24, no. 2 (2024): 233–50, <https://doi.org/10.15408/ajis.v24i2.38557>.

³⁸ Nofialdi and Siska Rianti, "The Distribution of Pusako Randah Property in Minangkabau Society: Between Cultural Tradition and Islamic Law Provision," *Mazahib: Jurnal Pemikiran Hukum Islam* 23, no. 1 (2024): 271–304, <https://doi.org/10.21093/mj.v23i1.7257>.

³⁹ Akhmad Haries, *Hukum Kewarisan Islam* (Sleman: Ar-Ruzz Media, 2019).

community, which has adhered to Islamic teachings since the early 17th century, developed a legal culture that does not dichotomize between customary law (*'ādah*) and Islamic law (*asy-syarī'ah*). Instead, these two systems are integrated, harmonized, and synchronized—both normatively and substantively. This integrative approach is rooted in the philosophical maxim: " Sharia respects custom, and custom respects Sharia; together, they will never mislead the people".

This synergy is reflected in legal responses to homicide, adultery, and inheritance. Customary concepts such as *puli* (retaliation) and *sapu* (compensation) parallel the Islamic principles of *qisās* and *diyah*, indicating a shared framework of retributive and restorative justice. Likewise, both systems impose strict evidentiary standards in adultery cases involving married individuals. In matters of inheritance, the Makassarese emphasize gender equality by granting equal shares to men and women. It intersects with the Islamic principle of proportional justice grounded in familial responsibility.

Nonetheless, this study leaves certain aspects open for future inquiry, particularly the role and authority of the *Pabbicara* (customary legal authority) in law enforcement, as seen through the lens of manuscript sources. Further research is encouraged to explore how this legal figure functioned within the integrated framework of custom and Islamic law. As mentioned before, theoretically, the integration between customary law and Islamic law in Makassarese communities is rooted in the grand design for the unity and the integrity of the ancient Islamic Kingdom of Gowa, or Makassar System, in which *ade'* (customary law) and *syarī'ah* (Islamic law) were integrated into a cultural system called *pangngadakkang* (Makassar) or *pangngaderreng* (Bugis).

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